

PATENT COOPERATION TREATY

20/ffm

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

AVECIA LIMITED
Attn. Morpeth, Fraser Forrest
Intellectual Property Group
P.O. Box 42, Hexagon House
Blackley, Manchester M9 8ZS
UNITED KINGDOM

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

<p>Applicant's or agent's file reference SMC 60606/WO</p>	<p>Date of mailing (day/month/year) 20/09/2004</p>
<p>International application No. PCT/GB2004/002855</p>	<p>International filing date (day/month/year) 02/07/2004</p>
<p>Applicant AVECIA LIMITED</p>	

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46).
When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:
- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
 - ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentlaan 2
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Authorized officer

Maria Cajide

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the letter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference SMC 60606/WO	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/GB2004/002855	International filing date (day/month/year) 02/07/2004	(Earliest) Priority Date (day/month/year) 18/07/2003
Applicant AVECIA LIMITED		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (See Box II).

3. ☐ **Unity of invention is lacking** (see Box III).

4. With regard to the title,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regards to the drawings,

- a. the figure of the **drawings** to be published with the abstract is Figure No. _____

☐ as suggested by the applicant.

☐ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

- b. ☐ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International Application No

PCT/GB2004/002855

A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 C09B47/06 C09B47/26 C09B67/22 C09D11/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 C09B C09D

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP 1 239 010 A (AVECIA LTD) 11 September 2002 (2002-09-11) claims 8-14	1-3, 6, 9-22
X	US 2001/011396 A1 (CARR KATHRYN) 9 August 2001 (2001-08-09) examples	1-3, 18-22
X	WO 01/66647 A (PATEL PRAKASH ; AVECIA LTD (GB); WIGHT PAUL (GB)) 13 September 2001 (2001-09-13) examples	1-3, 18-22
X	WO 01/66648 A (PATEL PRAKASH ; AVECIA LTD (GB); WIGHT PAUL (GB)) 13 September 2001 (2001-09-13) examples	1-4, 9-12, 18-22
	----- -/-	

☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

* Special categories of cited documents:

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- *G* document member of the same patent family

Date of the actual completion of the international search

7 September 2004

Date of mailing of the international search report

20/09/2004

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
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Fax: (+31-70) 340-3016

Authorized officer

Ketterer, M

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT		
Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
P,X	WO 03/068866 A (PATEL PRAKASH ; AVECIA LTD (GB)) 21 August 2003 (2003-08-21) examples -----	1-3,9-22
X	WO 98/49239 A (CARR KATHRYN ; ZENECA LTD (GB)) 5 November 1998 (1998-11-05) examples -----	1-3,7, 9-22
P,X	WO 2004/035701 A (PATEL PRAKASH ; AVECIA LTD (GB)) 29 April 2004 (2004-04-29) examples -----	1-3,7, 9-22
P,X	WO 2004/035700 A (PATEL PRAKASH ; AVECIA LTD (GB)) 29 April 2004 (2004-04-29) examples -----	1-3,7, 9-22
P,X	WO 03/089532 A (PATEL PRAKASH ; AVECIA LTD (GB); HORROBIN TINA MARGARET (GB)) 30 October 2003 (2003-10-30) the whole document -----	1-22
A	GB 2 341 868 A (AVECIA LTD) 29 March 2000 (2000-03-29) examples -----	1-4, 19-22

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/GB2004/002855

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
EP 1239010	A	11-09-2002	EP 1239010 A1	11-09-2002
			AT 262011 T	15-04-2004
			AT 247693 T	15-09-2003
			AU 4278999 A	10-01-2000
			CN 1116364 B	30-07-2003
			DE 69910581 D1	25-09-2003
			DE 69910581 T2	24-06-2004
			DE 69915712 D1	22-04-2004
			EP 1093492 A1	25-04-2001
			WO 9967334 A1	29-12-1999
			HK 1039347 A1	16-04-2004
			JP 2002522561 T	23-07-2002
			TW 538104 B	21-06-2003
			US 6149722 A	21-11-2000
US 2001011396	A1	09-08-2001	AU 6928498 A	24-11-1998
			DE 69808899 D1	28-11-2002
			EP 0975698 A1	02-02-2000
			WO 9849240 A1	05-11-1998
			JP 2001526649 T	18-12-2001
WO 0166647	A	13-09-2001	AU 3207501 A	17-09-2001
			AU 3208901 A	17-09-2001
			WO 0166647 A1	13-09-2001
			WO 0166649 A1	13-09-2001
WO 0166648	A	13-09-2001	AU 3208001 A	17-09-2001
			WO 0166648 A1	13-09-2001
WO 03068866	A	21-08-2003	WO 03068866 A1	21-08-2003
WO 9849239	A	05-11-1998	AU 6928398 A	24-11-1998
			DE 69809043 D1	05-12-2002
			EP 0979253 A1	16-02-2000
			WO 9849239 A1	05-11-1998
			JP 2001524148 T	27-11-2001
			US 6190422 B1	20-02-2001
WO 2004035701	A	29-04-2004	WO 2004035701 A1	29-04-2004
WO 2004035700	A	29-04-2004	WO 2004035700 A1	29-04-2004
WO 03089532	A	30-10-2003	WO 03089532 A1	30-10-2003
GB 2341868	A	29-03-2000	NONE	

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/002855

International filing date (day/month/year)
02.07.2004

Priority date (day/month/year)
18.07.2003

International Patent Classification (IPC) or both national classification and IPC
C09B47/06, C09B47/26, C09B67/22, C09D11/00

Applicant
AVECIA LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/002855

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/002855

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-22
Inventive step (IS)	Yes: Claims	
	No: Claims	1-22
Industrial applicability (IA)	Yes: Claims	1-22
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)

and / or

2. Non-written disclosures (Rules 43bis.1 and 70.9)

see form 210

Reference is made to the following documents:

D1: EP -A- 1 239 010
D2: US -A- 2001/0011396
D3: WO -A- 01/66647
D4: WO -A- 01/66648
D5: WO -A- 03/068866
D6: WO -A- 98/49239
D7: WO -A- 2004/035701
D8: WO -A- 2004/035700
D9: WO -A- 03/089532

1. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-22 is not new in the sense of Article 33(2) PCT.

1.1. D1 (see examples, claims) discloses phthalocyanin dyes in liquid medias with water, organic solvents, whereby the dyes bear (SO₃H)_x; (SO₂NR₁R₂)_y and (SO₂NR₃R₄)_z substituents on the outer beta-positions of the 4 phthalocyanin phenyl moieties as in the claimed compositions resp. mixtures. D1 is therefore novelty destroying for claims 1-3,6,9-22.

1.2. From the reaction conditions in the examples of D2 it seems that the phthalocyanines substituted in the outer ring positions are produced. The examples of D2 show 'optionally substituted hydrocarbyles' in the R₃/R₄ positions of the phthalocyanines. D2 is regarded being novelty destroying for claims 1-3,18-22.

1.3. 'Optionally substituted hydrocarbyles' are also presented in the phthalocyanine dyes of D3, which is also regarded being novelty destroying for claims 1-3,18-22.

1.4. Phthalocyanine dyes bearing 'optionally substituted alkyl resp. phenyl' as substituents are disclosed in D4 (see examples), which is novelty destroying for claims 1-4,9-12,18-22.

1.5. D5 (late published) see examples) is relevant for claims 1-3,9-22.

1.6. D6 (see examples) is relevant for claims 1-3,7,9-22.

1.7. D7 (late published; see examples) is relevant for claims 1-3,7,9-22.

1.8. D8 (late published; see examples) is relevant for claims 1-3,7,9-22.

1.9. D9 (late published; see whole document) is relevant for claims 1-22.

1.10. The applicant is kindly asked to clearly distinguish between the dyes of the disclosed prior art and the claimed dyes/mixtures/compositions with respect to the

substitution pattern on the outer rings of the phthalocyanine moiety; thereby it should be pointed out, that the reaction conditions of the prior art leads to products having substituents in the alpha positions.

2.1. Example 5 of the current application ($x=0$) obviously does not fall under the scope of claim 1.

2.2. From the examples it is not clear, whether the prepared products present mixtures; probably examples 22 and 23 on page 17 lead to a mixture with a first dye having a phenyl ring substituted with SO_3H and a second dye with an unsubstituted phenyl ring.

2.3. There are two claims numbered with 3.

2.4. The compounds resp. compositions disclosed in the prior art documents are considered being mixtures in the sense of current claims 1/13 under the light of the description. Regarding the examples resp. prepared inks of the current application, single dyes seem to be prepared.

It is not clear from the description resp. examples of the current application, where resp. whether resp. which kind of dye mixtures are prepared. Therefore, it seems that the description does not fulfill the criteria as set out in Article 5 PCT.